

Administration

Legislative Liaison

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SUMMARY of CHANGE

AR 1-20

Legislative Liaison

This regulation defines the responsibilities, policies, and procedures of the Department of the Army as they pertain to legislative and congressional relations.

Specifically this regulation--

- o Adds AR 5-10 to the required publications and adds DA Memo 360-1 and DA Memo 360-9 to the related publications (para 1-2).
- o Adds Federal Acquisition Regulation 5.303 and DOD Supplement, Part 49.7002 to related publications and deletes Defense Acquisition Regulation 1-1005.2 and Defense Acquisition Circular 1-1005.2 from related publications para 1-2).
- o Designates the Director of the Army Budget for appropriations committee matters to act as the final reviewing authority for congressional transcripts and inserts involving testimony by the Secretary and Under Secretary of the Army, Chief and Vice Chief of Staff, and the Sergeant Major of the Army prior to submission to witnesses for approval (para 1-4).
- o Shifts the responsibility for procuring and distributing (within the Army) congressional publications printed and distributed by the Government Printing Office (GPO) from The Adjutant General to Director of Information Systems for Command, Control, Communications, and Computers (DISC4) (para 1-4).
- o Adds a requirement for review by the DPAE, OCSA, of all resource program information to be given to congressional committees or the Congressional Budget Office for approval (para 1-4).
- o Adds several requirements to the Director of Management, OCSA, to assist in preparation of reports, statements, and transcripts for the Secretary of the Army and the Chief of Staff (para 1-4).
- o Explains more fully the DPAE's duties relating to congressional committees (para 1-4).
- o No longer requires that a Report of Congressional Visits be forwarded to OCLL following visits by all congressional personnel, when a liaison officer from HQDA accompanies the visit (para 2-3).
- o Requires that final coordination be made with the Army General Counsel for legal clearance on all legislative proposals and comments thereon, that are of interest to the Department of the Army (para 3-1).
- o Allows MACOMs to act as the forwarding agent for replies made by their subordinates commands and activities (para 6-2).
- o Provides for the use of facsimile transmissions to process replies for all types of congressional correspondences when equipment is available (para 6-2).

- o Establishes minimum thresholds for Army initiatives impact reporting to Members and committess (para 7-4).
- o Requires contracting officers to comply with Federal Acquisition Regulation 5.303, Announcement of Contract Awards, and with the DOD Supplement, Part 49.7002 to the Federal Acquistion Regulation (para 7-4).

Effective 13 September 1990

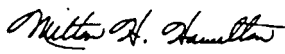
Administration

Legislative Liaison

By Order of the Secretary of the Army:

CARL E. VUONO
General, United States Army
Chief of Staff

Official:



MILTON H. HAMILTON
Administrative Assistant to the
Secretary of the Army

History. This UPDATE printing publishes a revision of this publication. Because the publication has been extensively revised, the changed portions have not been highlighted.

Summary. This regulation contains policy guidance and procedures for legislative and congressional activities. It implements the

use of facsimile transmission to process replies for all types of congressional correspondence. This regulation also states that a Report of Congressional Visits is no longer required and no longer forwarded to Office, Chief of Legislative Liaison following visits by congressional personnel when an HQDA liaison officer accompanies the visit.

Applicability. This regulation applies to the Active Army and the U.S. Army Reserve. It does not apply to the Army National Guard.

Proponent and exception authority. Not applicable

Army management control process. This regulation is subject to the requirements of AR 11–2. It contains internal control provisions but does not contain checklists for conducting internal control reviews. These checklists are being developed and will be published at a later date.

Supplementation. Supplementation of this regulation and establishment of command and local forms are prohibited without prior

approval from HQDA (SALL), WASH DC 20310–1600.

Interim changes. Interim changes to this regulation are not official unless they are authenticated by the Administrative Assistant to the Secretary of the Army. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

Suggested Improvements. The proponent agency of this regulation is the Office of the Chief of Legislative Liaison. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQDA (SALL), WASH DC 20310–1600.

Distribution. Distribution of this publication is made in accordance with the requirements on DA Form 12–09–E, block number 3002, intended for command level C for Active Army, D for Army National Guard, and D for U.S. Army Reserve.

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Glossary

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Chapter 1 Introduction

1-1. Purpose

This regulation sets forth the responsibilities, policies, and procedures of the Department of the Army (DA) for legislative and congressional relations.

1-2. References

Required and related publications are listed in appendix A. Referenced forms are also listed in appendix A.

1-3. Explanation of abbreviations

Abbreviations used in this regulation are explained in the glossary.

1-4. Responsibilities

a. *Chief of Legislative Liaison (CLL)*. The CLL is directly responsible to the Secretary of the Army and responds to the Office of the Chief of Staff when required. The CLL will—

(1) As the head of the sole directive agency for DA congressional affairs, formulate, coordinate, and supervise policies and programs on the Army's relations with the Congress.

(2) Provide liaison between the Army and committees of Congress, except for appropriations committees, civil works, and printing.

(3) Act as a point of contact for DA with Members of Congress, their staffs, and all relevant committees except the appropriations committees.

(4) Advise on the status of congressional affairs affecting the Army and on legislative aspects of Army policies, plans, and programs.

(5) Give prompt, coordinated, consistent, and factual information on Army policies and operations in response to inquiries received from Members or congressional committees.

(6) Coordinate, monitor, and report legislative and investigative actions of interest to the Army, and provide advice to Army witnesses called to appear before legislative or investigative committees.

b. *Assistant Secretary of the Army for Financial Management (ASA(FM))*. The ASA(FM) is responsible for liaison with the appropriations committees and their staffs, except in civil works programs, Panama Canal, and Army national cemetery matters. The ASA(FM) will—

(1) Act as the advisor and consultant to DA on congressional matters relating to the appropriations committees.

(2) Task Army Staff agencies and major Army commands (MACOMs) to provide witnesses, briefers, and information requested by the appropriations committees and their staffs; coordinate hearing schedules and witness lists with the CLL.

(3) In conjunction with the Director of Program Analysis and Evaluation (DPAE), Office of the Chief of Staff, U.S. Army (OCSA), review Army responses to congressional committees and the Congressional Budget Office (CBO) (that involve resources) prior to submission of these responses.

(4) Designate the Director of the Army Budget, in conjunction with DPAE, OCSA, for appropriations committee matters, to act as the final reviewing authority for congressional transcripts and inserts involving testimony by the Secretary and Under Secretary of the Army, Chief and Vice Chief of Staff, and the Sergeant Major of the Army prior to submission to witnesses for approval. For appropriations committee hearings not involving the five mentioned witnesses, provide the same reviewing authority without the aid of DPAE.

(5) Provide prompt, coordinated, consistent, and factual information on Army policies and operations in response to inquiries received from appropriations committee members and their staffs.

(6) Serve as the principal liaison with the office of the Assistant Secretary of Defense (Comptroller) on congressional reporting requirements for both the authorization and appropriations committees.

(7) Manage the Army appeal process for the authorization and appropriation appeals.

(8) Coordinate continuously with the CLL on appropriations committee matters to ensure that Army replies to the committee Members and staffs are consistent with replies sent to other committees.

(9) Coordinate, monitor, and report the status of ongoing investigations by the Surveys and Investigations Staff, House Appropriations Committee.

(10) Maintain recommendations and legal directives of appropriations committees and assign responsibility to the appropriate staff agency for action necessary to comply with the intent or mandates of the Congress.

(11) Keep DA, MACOM, and Army Staff agencies informed of the current status of actions of the appropriations committees.

c. *Assistant Secretary of the Army for Civil Works (ASA(CW))*. The ASA(CW) has responsibility for all legislative affairs pertaining to civil works and will communicate directly with Congress on authorization and appropriation matters pertaining to the civil works program. The U.S. Army Corps of Engineers will assist the ASA(CW) in communicating with Congress on civil works matters.

d. *Director of Information Systems for Command, Control, Communications, and Computers (DISC4)*. The DISC4 is the primary contact for the Army with the Joint Committee on Printing, the Public Printer, and the Director, Bureau of Engraving and Printing. The DISC4 is responsible for procuring and distributing (within the Army) congressional publications printed and distributed by the Government Printing Office (GPO).

e. *Commanding General, U.S. Army Information Systems Command (CG, USAISC)*. The Commander, U.S. Army Publications and Printing Command (USAPPC), on behalf of the CG, USAISC, will procure and distribute within the Army congressional publications printed and distributed by the GPO.

f. *The Judge Advocate General (TJAG)*. TJAG is responsible for drafting DA legislation and processing private relief legislation, except for matters on civil works.

g. *Commanders of MACOMs and heads of Army Staff agencies*. Commanders of MACOMs and heads of Army Staff agencies will—

(1) Select qualified witnesses in coordination with the CLL and the ASA(FM), and ensure the continuity of designated witnesses to testify on the subject matter.

(2) Provide timely, consistent, factual, and fully coordinated information in response to requests received from the CLL, ASA(FM), and Director of Management, OCSA.

(3) Ensure the continuity and consistency of information provided as backup material.

(4) Ensure that all information to be given to congressional committees or the CBO that affects resource programming is coordinated with DPAE, OCSA, prior to submission to the CLL and ASA(FM).

(5) Ensure that contacts with Members of Congress, congressional staffs, or committee staffs are reported to the CLL or the ASA(FM), as appropriate.

(6) Ensure that contacts outside the CLL and ASA(FM) channels are held to a minimum to provide Congress with a consistency of information.

(7) Handle communications received directly from members of committees of Congress and their staffs according to chapter 6.

(8) Ensure that all information provided to the Budget Committee or CBO is properly coordinated before submitting to the CLL. Ensure that all information provided to the CBO is properly coordinated and cleared before submitting to the CLL.

h. *Director of Management (DM), OCSA*. The DM will—

(1) Maintain a standing operating procedure of responsibilities and actions of the Army Staff for Army appearances before committees of Congress and other related actions.

(2) Act as the Army Staff point of contact for coordination and review of prepared presentations, the annual report to Congress, and backup material requirements for the Secretary of Defense and Chairman of the Joint Chiefs of Staff.

(3) Coordinate the preparation effort and provide necessary

backup to support the Secretary of the Army, the Under Secretary of the Army, the Chief of Staff and Vice Chief of Staff of the Army, and the Sergeant Major of the Army during their appearances before congressional committees.

(4) Obtain clearances and publish advance copies of prepared statements for the Secretary and Under Secretary of the Army, Chief and Vice Chief of Staff of the Army, and the Sergeant Major of the Army for use in their appearances before congressional committees.

(5) Supervise the editing and review of transcripts of testimony of the Secretary and Under Secretary of the Army, the Chief and Vice Chief of Staff of the Army, and the Sergeant Major of the Army before all congressional committees.

i. Director of Program Analysis and Evaluation (DPAE), OCSA. The DPAE will—

(1) Participate in development of the purpose, scope, and theme of the Army's program before the Congress.

(2) In conjunction with the ASAS(FM), review Army responses to congressional committees and the CBO that involve resource programming prior to the submission of these responses.

(3) In conjunction with the DAB, act as a final reviewing authority for congressional transcripts and inserts involving testimony by the Secretary and Under Secretary of the Army, the Chief and Vice Chief of Staff of the Army, and the Sergeant Major of the Army prior to submission to the witnesses for approval.

j. Other heads of agencies. Except as noted in *d* above, all other heads of agencies responsible for liaison with the Congress will obtain and distribute congressional publications that fall within their areas of responsibility (unless the publications are distributed by the GPO). These include documents printed for the use of congressional committees, hearing transcripts, and other congressional documents not available for public distribution.

Chapter 2 Contacts with Congress

2-1. Handling of contacts

Contacts between commanders and officials of the Army and Members of Congress are encouraged. Official statements will be confined to matters under the cognizance of the Army representative. Matters that involve policy or major responsibilities of higher headquarters will be referred to that level for appropriate response. Contacts will be reported to the Office of the Chief of Legislative Liaison (OCLL).

2-2. Access to information

a. Members of Congress and congressional committee staffs are authorized access to classified and unclassified information when necessary to perform their governmental functions. However, they will be subject to proper clearance, coordination, pertinent laws, Executive orders, and regulations (AR 340-17 and AR 340-21). While Members are in possession of necessary U.S. clearances, North Atlantic Treaty Organization (NATO) and other treaty clearances must be processed on an individual basis through the Office of the Secretary of Defense (OSD) in coordination with the CLL.

b. Except when Members of Congress request records in their individual capacities on behalf of constituents (see AR 340-17, para 5-102), any denial of requests for information from Members of Congress must be approved by the Secretary of the Army. A denial of such a request from a congressional committee must be approved by the Department of Defense (DOD). Any exercise of executive privilege to resist a congressional subpoena must be approved by the Office of the President.

c. When Members of Congress and congressional staff members visit Army installations or activities in an official capacity, the DOD agency sponsoring the travel will give commanders written confirmation of security clearances.

d. Documents requested by Members of Congress or congressional staffs will be forwarded for delivery through the CLL or

through the responsible Army agency as shown in chapter 1. Exceptions occur when DA issues other instructions or as authorized in AR 340-17 and AR 340-21. Commanders forwarding such documents will include necessary explanations.

2-3. Congressional travel

a. Planning and coordination. The CLL will—

(1) Plan and coordinate congressional travel.

(2) Issue appropriate travel orders.

(3) Adhere to proper protocol measures.

(4) Correct funding procedures.

(5) Ensure congressional travelers are familiar with Army public affairs policies as they pertain to partisan political activities on a military installation. (See AR 360-5, para 3-45.)

b. Policy. Invitations for nonreimbursable travel to Members of Congress and their dependents and employees will be extended by the Secretary of Defense or, in certain cases, by the Secretary of the Army. No invitation for such travel will be issued unilaterally by any DA agency.

c. Procedure. DA agencies desiring to extend invitations for such travel will submit a request (to be signed by the head of the agency) to the Secretary of the Army through the CLL. A minimum of 15 days prior to the date of the planned travel is required to process the request. Short notice requirements will be submitted by telephone to the Congressional Operations Division, OCLL. The following information must be furnished with all requests:

(1) Purpose of trip and itinerary.

(2) Commander sponsoring trip.

(3) Names of congressional personnel.

(4) Mode of transportation.

(5) Contact officer.

d. Report of congressional visits. The following provisions do not apply to visits or meetings held in the National Capital Region with members of the HQDA or Secretariat staff. These are intended to apply to field visits with or without an HQDA escort. (RCS SAOSA-9).

(1) Immediately upon receiving information of a proposed visit by Members or staffs of congressional committees, subcommittees, task forces, or special survey groups or teams, the following action will be taken:

(a) An initial priority report will be transmitted directly by electronic means to HQDA, for CLL (or ASA(FM) according to (4) below).

(b) The report will include all the available information about the visit.

(c) The report will not be delayed to await the receipt of additional information.

(d) No initial report will be required when notification of the proposed visit is furnished by HQDA.

(2) At the end of a congressional visit, investigation, or hearing, commanders will submit reports as outlined in (3) below if an HQDA escort officer does not accompany the trip. If an HQDA escort does accompany the trip, commanders may submit reports to provide their perspectives and to highlight key issues. More frequent reports may be required for visits, investigations, or hearings of long duration, of special importance, or those that result in events of particular interest to the DA. (Copies of reports will be furnished to intermediate echelons as the commander considers appropriate.)

(3) Reports will include—

(a) Place and duration of the visit.

(b) Names of Members and staff representatives.

(c) Areas of interest.

(d) Summary of information furnished.

(e) Requirements imposed.

(f) Deficiencies disclosed.

(g) Any corrective action taken or recommended.

(4) When the visit is by Members or staff of an appropriations committee, the reports required by (1) and (2) above will be submitted to OASA(FM), ATTN: SAFM-BUL, WASH, DC 20310-2050; an information copy will be provided to the CLL, ATTN: SALL, WASH, DC 20310-1600. When the visit is by a Member of the

Surveys and Investigative Staff (S&IS) of the House Appropriations Committee (HAC), the report will be submitted to the DA functional monitor with an information copy to SAFM-BUL.

(5) The first paragraph of all reports will include only the symbol "CONVISIT" and "RCS SAOSA-9."

(6) If copies of the reports required by this section are requested by the congressional member or staff concerned, such requests will be referred to the CLL or ASA(FM) in cases under (4) above.

Chapter 3 Legislation

3-1. Coordination

The CLL formulates, coordinates, and supervises that portion of the DOD Legislative Program that is initiated by the DA or assigned responsibility by the Secretary of Defense. All legislative and executive items described in this chapter, except those concerning civil works items under the direction of the ASA(CW), will be coordinated by the Army Staff with TJAG for legal and technical accuracy before final submission to the CLL. Coordination will also be made with the Army General Counsel for legal clearance on all legislative proposals and comments thereon, that are of interest to the DA.

3-2. Legislation proposed by DA

a. Proposals for legislation that are necessary to carry out DA responsibilities and objectives will be recommended for inclusion into the DOD Legislative Program by the heads of DA agencies or commands concerned. The ASA(CW) will recommend necessary legislative proposals concerning civil works.

b. The DA agency concerned will coordinate each legislative proposal with other interested agencies of the DA and obtain approval from the Chief of Staff. Thereafter, the Chief Legislative Counsel will assign a legislative counsel within the Investigations and Legislative Division to process and coordinate the proposed legislation, which includes—

(1) Obtaining approval from the Office of the Secretary of the Army.

(2) Coordinating it with the other military departments of the DOD and with the appropriate staff element of OSD.

(3) Transmitting it to Congress.

(4) Arranging for and assisting in presenting the necessary testimony thereon, both written and oral, to the appropriate congressional committees.

c. The agency or command having primary interest will be prepared to provide witnesses and data as required. Legislative proposals on civil works will be processed in a similar fashion. However, approval of the Office of the Chief of Staff and coordination with other military departments and OSD are not required.

3-3. Legislation not proposed by DA, but of interest to DA

a. The CLL supervises Army coordination and review of legislative proposals, bills, and reports originated by other than DA, and that are of interest to the Army. These actions normally take the form of—

(1) Legislative proposal by other military departments, OSD, and other executive departments.

(2) Bills introduced by individual Members of Congress when the responsibility for reporting on them has been assigned to the DA by the Secretary of Defense.

(3) Proposed reports to the Office of Management and Budget (OMB) and congressional committees prepared by other military departments, OSD, and other Federal departments and agencies.

b. Legislative proposals of this nature are frequently time-sensitive and require expeditious action at every level. Processing of these proposals will be according to DA Memo 340-6 under the supervision of the Investigations and Legislation Division, OCLL.

3-4. Executive orders and proclamations

The CLL supervises the processing and coordination of Executive orders and proclamations. Reports on them will be processed as described in paragraphs 3-2 and 3-3.

Chapter 4 Investigations

4-1. Objectives

a. As a basic objective, the DA attempts to preclude formal congressional investigations by—

(1) Furnishing promptly (in response to committee inquiries) adequate information on Army programs and operations.

(2) Cooperating fully with committees and their staffs.

(3) Maintaining awareness of the official interest of pertinent committees.

b. An exception is made to the HAC Surveys and Investigations Staff (S&IS) inquiries. Public Law 79-601 authorizes the HAC to appoint a S&IS to conduct studies and examinations of the organization and operation of an executive agency. In this context, the S&IS is an extension of the HAC, and its staff represents the committee during the course of investigation. Thus, the same policy applies to the S&IS as to other committee staff members when dealing with Army Secretariat and Staff agencies or field commanders.

4-2. Investigations and hearings

a. Investigative hearings. The CLL will—

(1) Alert appropriate DA elements of investigative hearings.

(2) Provide information on the scope and schedule of the hearings.

(3) Coordinate the selection of witnesses and the presentation of evidence before committees.

(4) Furnish legislative counsel for Army witnesses as required.

(5) Monitor hearings.

(6) Process official transcripts.

(7) Coordinate congressional investigative visits to Army installations including the release of documents. (Information copies of all correspondence with Congress regarding investigations will be furnished to the Assistant Secretary of Defense (Legislative Affairs), ATTN: OASD (LA) WASH DC 20301-1300.)

b. HAC, subcommittee on surveys and investigations. The Office of the Assistant Secretary of the Army for Financial Management (SAFM-BUL), WASH DC 20310-2050, will request an appropriate Army Secretariat or Army Staff agency to provide a functional monitor for a specific investigation and will establish a budget monitor as required for budget issues. The functional monitor will—

(1) Brief investigators as necessary.

(2) Review and recommend the release of all material.

(3) Arrange travel of investigators to DA commands and field activities.

(4) Provide monthly status reports to SAFM-BUL.

c. Other investigations. The CLL or the ASA(CW), as appropriate will—

(1) Alert DA elements of planned congressional investigations.

(2) Provide information on the scope of the investigations.

(3) Furnish guidance, as necessary, on a case-by-case basis.

(4) Coordinate congressional investigative visits to Army installations, including the release of documents.

d. Investigations by the GAO. (See AR 36-2.)

Chapter 5 Appearances before Congressional Committees

5-1. Role of witnesses

a. The success or failure of the DA to obtain enactment of desired legislation depends largely upon the effectiveness of Army witnesses appearing before congressional committees as to—

(1) Presenting views on legislative proposals (includes DOD authorization and appropriation bills).

(2) Setting forth the Army's position in congressional investigations.

b. Congressional committee hearings are held either in open or closed (executive) session. The general public and the news media are permitted to attend open sessions and any testimony given is considered a public statement. Closed (executive) sessions are hearings from which the general public, including the news media, is excluded.

5-2. Legislative counsel

a. The CLL (see para 1-4) will normally designate legislative counsel from the Investigative and Legislative Division, OCLL, for each legislative proposal and each hearing in which testimony is to be given by DA witnesses. In the case of posture hearings or other hearings concerning the DOD Authorization Act process, the CLL will normally designate a representative from the Programs Division, OCLL, for these hearings. In addition, the ASA(FM) will designate a representative from the Congressional Budget Liaison Office for posture hearings or other hearings concerning the DOD Appropriations Act process. The representative will—

(1) Assist Army witnesses and other Army personnel in preparing and presenting their testimonies.

(2) Advise on the required number of copies of prepared statements.

(3) Be available for advice and assistance in all phases of the hearing and will accompany the witness.

(4) Provide guidance on responses to questions that involve opinions on positions established by the Secretary of the Army or by the Secretary of Defense.

b. The legislative counsel will make prehearing and posthearing contact with a congressional committee or a committee staff, except in cases where a member of the committee or the committee staff directly contact an individual witness. Any such contact will be reported as prescribed in paragraph 5-3c.

5-3. Selection of witnesses

a. *Legislative proposals.* Witnesses for a specific congressional hearing normally are selected by the Army agency that has action responsibility for the proposal in coordination with the CLL or appropriate Army agency. This agency will arrange for the presence of witnesses from other Army agencies as required and ensure that they are informed of DA and DOD policies and positions on the subject of the hearing.

b. *Congressional investigations.* Prior to the initial date of the hearing, the committee usually specifies by name or duty assignment those witnesses it desires. Where the selection of witnesses is left to DA, the procedures of a above generally will be used.

c. *Witnesses contacted directly by a committee.* Any request from a congressional committee made directly to an individual witness or agency of the Army will be reported promptly by telephone to the CLL (or to the appropriate Army agency having responsibility as shown in para 1-4). This initial notification will be confirmed in writing and will provide the following information:

(1) Name of committee or person transmitting request.

(2) Subject of hearing.

(3) Date, place, and time of hearing.

(4) Name, rank, and position of witness.

(5) Area and scope of interest.

d. *Request for witnesses.*

(1) If the following are desired as witnesses, the Army agency with action responsibility for the proposal will make recommendation to the CLL—

(a) The Secretary of the Army.

(b) The Under Secretary of the Army.

(c) An Assistant Secretary of the Army.

(d) The Chief of Staff.

(e) The Vice Chief of Staff.

(2) If supporting witnesses from the other military departments

are desired, they will be requested through CLL by the Army agency having action responsibility.

e. *Selection criteria.* Individuals will be designated as witnesses on the basis of grade and position, knowledge of the subject matter, and ability to present the Army position.

f. *Time of selection.*

(1) The selection of witnesses to present testimony relating to a legislative proposal of the Army or other military departments will be made early to allow thorough preparation. The selection will be no later than the submission date of the proposal to the Congress.

(2) Selection of witnesses to testify on legislation not proposed by the military departments will be made—

(a) As soon as it appears that Army witnesses will be requested by a congressional committee.

(b) When the Army desires to present witnesses to testify on a proposal.

5-4. Preparation of testimony

a. *Coordination.* The agency having action responsibility for a legislative proposal or congressional investigation will coordinate with witnesses to ensure—

(1) Continuity.

(2) Complete coverage.

(3) Consistency of proposed testimony with DA and OSD policies.

b. *Prepared statements.*

(1) Except in unusual circumstances, prepared statements will be used by witnesses when testifying before congressional committees. Written statements submitted by a witness are critical documents that will be published as the Administration's position. Unclassified versions will be prepared and coordinated with each classified statement, if any.

(2) The legislative counsel will advise on—

(a) The required number of advance and final copies of the prepared statements.

(b) Processing.

(c) Time and place of delivery.

(d) Biographical material concerning the witness as may be needed.

(3) No prepared statement will be released to individuals or agencies outside the DOD before it is presented to and authorized by the intended committee.

5-5. Required clearance of congressional testimony

a. *Security policy.* The policy of the DOD is to ensure military security and to keep the American public informed within the limits of security. To accomplish these aims, the following will contain an overall security classification and will be reviewed and cleared by DA and DOD (except for civil works matters) before releasing to the public:

(1) Prepared statements and audiovisual aids used in testifying before congressional committees.

(2) Testimony given in closed sessions of congressional committees.

b. *HQDA agencies.* DA agencies and MACOMs furnishing witnesses for congressional hearings will, with respect to the testimony of such witnesses, obtain all necessary clearances (using DD Form 1790 (Prepared Testimony Review)) 72 hours in advance of the hearing. Additional time is necessary if the legislative counsel determines OMB clearance is also required. DOD clearance requirements include, at a minimum:

(1) Clearances from the Office of the Deputy Chief of Staff for Intelligence (DCSI) per AR 380-5.

(2) Clearance from the Statistical Clearance Branch, USAISC.

(3) Clearance with the Office of the Chief of Public Affairs, OSA, per AR 360-5, and DA Memos 360-1 and 360-9.

(4) Final clearance from the Office of Assistant Secretary of Defense (Public Affairs) (OASD(PA)) for all statements. Congressional Activities Team, OCSA, is responsible for clearances of the Secretary and Under Secretary of the Army, the Chief and Vice Chief of Staff of the Army, and the Sergeant Major of the Army

statements. Once cleared with OSD, coordinate with OCLL to obtain OMB clearance, if required.

c. Testimony before open sessions of congressional committees. Prepared statements and audiovisual aids for presentation in open session by DA witnesses will be reviewed and cleared by the OASD(PA) before a witness testifies before a congressional committee. In the event an OASD(PA) clearance has not been obtained at the time testimony is to be given, the witness will advise the committee that—

(1) The statement of testimony has not been cleared for public release.

(2) The statement of testimony cannot be given in open session of the committee.

d. Oral statements and testimony. Witnesses who testify without prepared statements before open sessions of congressional committees will—

(1) Ensure that their testimonies are unclassified.

(2) Obtain the proper authority for releasing the information involved.

e. Testimony before closed sessions of congressional committees. Prepared statements, oral statements, and testimony given in closed (executive) sessions of congressional committees are the property of the committee; they will not be released to individuals or agencies outside DOD except by permission of the committee or by the committee.

(1) Oral statements and testimony given in closed sessions of congressional committees will be reviewed in transcript form after the hearings but prior to public release.

(2) At the end of each closed congressional committee hearing, the CLL or the ASA(FM) (for appropriations committees) will obtain the transcript of testimony and submit it to the pertinent Army agencies for review. Upon completion of this review (to include security) the transcript of testimony will be forwarded to the OASD(PA) for clearance before returning the documents to the CLL or the ASA(FM), as appropriate, for return to the congressional committee. The ASA(CW) will process testimony involving civil works to obtain the necessary review, including security.

(3) In the case of testimony from MACOMs, transcripts will be referred to them by the CLL or the ASA(CW), as appropriate, following review by HQDA.

5-6. Classified testimony

a. Security procedures. Congressional committees operate under security procedures similar to those of the military departments. Because of the nature of their duties, Members of Congress are entitled to receive classified information. The legislative counsel will ensure that witnesses are aware of the provisions of AR 340-17 and AR 380-5 as they apply to the particular situations.

b. Closed session. Classified information will be given by a witness only in closed session. When a question is asked in open session that requires a classified answer, the witness will advise the committee that—

(1) The question cannot be answered because of security reasons.

(2) The question will be answered in closed (executive) session if the committee so desires.

5-7. Responsibilities after hearings

a. Furnishing additional information. Information that is not immediately available to the witness, but is requested by a committee during a hearing, will be obtained by the command or agency having action responsibility and forwarded to the CLL (or to the ASA(FM) as appropriate) for transmittal to the committee.

b. Correction of transcript of hearing. After each committee hearing, a copy of the transcript of Army witnesses is normally made available to the legislative counsel. Transcripts will be submitted to the witnesses concerned for examination and correction. Witnesses may correct grammatical or typographical errors in their transcripts provided the corrections do not alter the meaning of their testimonies. When substantial changes are considered necessary, witnesses will consult in advance with the legislative counsel. When

requested by the committee, classified material will be deleted according to instructions accompanying the transcript.

c. Errors in testimony. If any material part of the testimony has been incorrectly reported in the transcript, the witness will notify the CLL (or the ASA(FM) as appropriate) as to how the transcript is in error and what testimony should have been recorded. The CLL (or the ASA(FM) as appropriate) will request that the committee correct such errors in the transcript.

d. Release of transcripts. Requests for transcripts will be handled per AR 340-17, paragraph 2-3. Requests will be identified as either the general public or congressional sources.

Chapter 6 Communications with Congress

Note. No provision of this regulation is intended to restrict the right of any individual to communicate with a Member of Congress. No person may take (or threaten to take) an unfavorable personnel action or withhold (or threaten to withhold) a favorable personnel action, as reprisal against a member of the Armed Forces for making or preparing a communication to a Member of Congress (Public Law 100-456 (10 USC 1034)).

6-1. Procedures

a. The Department of the Army's policy is to make information promptly available to Members and congressional committees and their staffs. This policy is limited only by pertinent regulations and directives relating to security and protection of individual privacy, and to official information that requires protection in the public interest.

b. Coordination of a congressional response is the responsibility of the preparing agency. Coordination at a level above the Army Staff is the responsibility of the CLL. To expedite replies and avoid delay, the CLL is authorized to contact directly all DA agencies, commands, and subordinates for the purpose of securing necessary information.

c. Correspondence to the Congress will be brief, clear, and courteous. Military abbreviations and technical language will not be used. Letters must be factual, forthright, simple, and responsive.

d. When identical inquiries are received from several Members of Congress, it is preferable to use an identical reply to each. However, a form letter or copy will not be used. Each case must be handled on its individual merit. Every inquiry must be answered fully and factually.

e. Communications between a Member of Congress and the Army are close hold. Inquiries from Members of Congress will not be furnished to any other Member of Congress, business, or individual without the prior approval of the CLL. When responding to an inquiry from a Member of Congress, names of other Members from whom identical constituent inquiries have been received will not be cited. Reference may be made to other inquiries on behalf of the same constituent, written or verbal, without citing the specific names of Members of Congress, when—

(1) It is considered appropriate or essential to provide this information in the interest of clarity.

(2) It will ensure a complete understanding of all the circumstances involved.

(3) It will more fully substantiate any Army position.

f. No command or DA agency will transfer any congressional inquiry that has been referred to it by the CLL to any other DA agency or command without the express consent of the CLL.

g. When congressional inquiries are referred for direct reply from one office, agency, or command to another, the reply will not mention that the inquiry has been referred. The opening paragraph will normally be written to include the subject of the letter and the name of the constituent (if identified). The first paragraph will merely state: "This letter is in reply," or some comparable phrase.

h. Whenever possible, Members of Congress are to be advised of the outcome of constituent matters before any other inquiring parties are informed, including the constituent. This restriction does not

apply to constituents when the matter under consideration requires contact with them before a reply to the inquiry can be made.

6-2. Correspondence with individual Members of Congress

a. Requests for information received from Members of Congress that are referred to another office or agency by OCLL, or other DA agencies will be accompanied by specific instructions concerning the replies.

b. When a congressional inquiry is addressed to a field or Staff agency (or has been referred to that agency for direct reply), the reply will be signed by the individual who heads the organization or activity responsible for the action (or designated representative) and sent directly to the Member of Congress concerned. The MACOMs will designate signature authorities within their areas of responsibility. When replies to such inquiries involve sensitive issues, the CLL will be advised immediately.

c. Copies of all inquiries received directly from Congress by field or Staff agencies, and responses to them will be provided to the CLL when action has been completed (except inquiries concerning civil works matters, which will be provided to the ASA(CW)). Each MACOM may act as the forwarding agent for replies made by their subordinate commands or activities.

d. The proposed reply (together with the basic communication, enclosures, and all additional information) will be forwarded to the CLL or the appropriate Army agency (see para 1-4) for coordination and final reply to the Member concerned when the answer to a direct reply: requires approval by DA; relates to proposed or pending legislation or congressional investigation; or requires an explanation of the Army's policy beyond the purview of the addressee. (Command channels will be used when the field or staff agency determines that the intermediate headquarters may be able to contribute substantially to the final reply.)

e. Congressional inquiries often concern subjects of significant importance to the Army. Therefore, it is in the Army's best interest to furnish replies promptly. Special attention will be given to those inquiries in a compassionate or time-sensitive category such as: death; injury or sickness; or other grave circumstances relating to Service personnel or members of their families.

f. The above cases must be given the highest priority and be expedited by telephone, electronically transmitted message, or telecopier, using overtime and weekend duty as necessary. An officer will handle such cases.

g. To designate cases requiring special handling within DA, an administrative procedure entitled "WHITE STAR" has been established. The OCLL will determine when a congressional inquiry requires special handling and designate the case "WHITE STAR." This procedure is in addition to the prompt handling of all cases and does not preclude locally sensitive cases from being included in this category. The "WHITE STAR" designation will serve to alert action agencies and officers to congressional actions that require prompt action at every level.

h. Replies to congressional correspondence requiring the signature of the Secretary of Defense or the Deputy Secretary of Defense require a response by OCLL within 4 working days. Because of this time constraint, all communications on actions between OCLL and field action officers must be by telephone, telecopier, or electronically transmitted message. Occasionally, final responses cannot be made in the allotted time. In these cases, a substantive interim reply will be made. It must contain as much specific information as possible, include reasons for the delay, and include the approximate date when a final reply may be expected.

i. The following guidelines apply for the processing of all other types of congressional correspondence:

(1) All replies will be transmitted to OCLL by the fastest possible means. Facsimile transmission is preferred.

(2) Final replies to communications received directly from Members of Congress and those referred from HQDA for direct reply will be dispatched within 5 working days after receipt.

(3) Requests for draft replies to communications referred by

HQDA will be returned to HQDA tasking activity by the assigned suspense date. Normally, the suspense date will be 5 working days from receipt of the request.

j. When circumstances clearly prevent a final or draft reply within the periods outlined in *i* above, an interim reply will be made. The interim reply will contain as much information as is available at the time, inform the Member of Congress of the reason for the delay (if appropriate), and set a specific time period for a final response. Information developed from investigations, boards, and other similar proceedings normally should not be provided until after the ongoing action is completed. Subsequent interim replies will be provided every 30 calendar days.

k. When a situation involving a congressional inquiry changes after a Member of Congress has been given a final reply to an inquiry, a voluntary follow-up should be furnished to the Member. An information copy of this follow-up reply will be furnished to the OCLL.

l. The following guidelines apply to the processing of routine telephonic congressional inquiries:

(1) Action agencies in the United States will respond by telephone to telephone inquiries referred to them by OCLL within 2 workdays.

(2) Action agencies overseas will respond by telephone directly to OCLL or through the appropriate liaison facility within 5 working days, using procedures determined by the MACOM. Facsimile transmission is preferred.

(3) Shorter suspenses than those listed above may be imposed, as necessary, by the action officer or representative in OCLL.

6-3. Correspondence from Army personnel to Members of Congress

a. Letters are often written by Army personnel to Members of Congress when they could have taken action to resolve their problems within the chain of command. AR 600-20, paragraph 5-13, states that leaders are responsible for continually advising their subordinates to seek advice or assistance within the chain of command, from appropriate Staff agencies, or from an inspector general.

b. However, section 1034, title 10, United States Code (10 USC 1034) and AR 600-20, paragraph 5-2, provide that no person may restrict any member of an Armed Force from communication with a Member of Congress, unless the communication is unlawful or violates a regulation that is necessary to the security of the United States.

6-4. Correspondence with committees of Congress

a. Committee inquiries about the operations and activities of the Army may be addressed to—

- (1) The Secretary of Defense.
- (2) The Secretary of the Army.
- (3) The Assistant Secretary of the Army (CW)
- (4) The Assistant Secretary of the Army (FM)
- (5) The Chief of Staff.
- (6) The Chief of Legislative Liaison.
- (7) The Comptroller of the Army.
- (8) Individual commanders or officials of the Army.

b. Committee inquiries may be forwarded to an appropriate Army agency for direct response.

c. The following guidelines apply to committee inquiries:

(1) All releases of official records and DA documents will be made according to AR 340-17 and AR 340-21.

(2) Inspection of official records will normally be permitted when requested by a congressional committee. Such committee requests will be processed through the CLL. When classified records are involved, provisions of AR 380-5 will be followed.

(3) In the event of a question on a committee request for material of a sensitive nature, the matter will be submitted to the CLL for a decision.

d. The following applies to the release of restricted data:

(1) Authority to communicate restricted data to a Member or staff of a committee will be obtained through the CLL.

(2) When an agency or office of HQDA corresponds with Congress on matters pertaining to nuclear energy, two copies of the correspondence will be provided to the Deputy Chief of Staff for Operations and Plans (DCSOPS).

6-5. Clearance of material furnished Congress

a. All material containing statistical data prepared by an HQDA agency for release outside the DA will be processed for statistical clearance according to DA Memorandum 360-3.

b. Security clearance of material furnished to Congress (other than congressional testimony,) is the responsibility of the originating agency or command. The appropriate Army agency having responsibility as shown in paragraph 1-4, will ascertain that proper DA clearances have been obtained prior to submissions to CLL or ASA(FM). Instructions for obtaining security clearances are contained in DA Standing Operating Procedures (SOP), "Responsibilities in Connection with Army Appearances before Committees of Congress, and other Related Actions."

Chapter 7 Congressional Notifications

7-1. Overview

The DA generally takes the initiative to provide Members and congressional committees with timely information on activities and approved plans of the Army. Particular emphasis is given to matters affecting committee responsibilities and individual constituencies. This type of unsolicited information may be in the form of briefings, written materials, or data especially compiled for the convenience of Congress.

7-2. Policy

Each significant Army action must be considered for congressional implications. As Army plans are developed that affect areas of concern to Congress, the responsible Army Staff agency will coordinate with the CLL to determine congressional implications. A congressional notification plan will be included as part of the Army plan where deemed necessary. The plan will use news releases prepared by OCPA, information papers, and briefings for Congress. When briefings are proposed, specific elements of Congress to be briefed will be noted.

7-3. Army-wide activities

Information to be provided the Congress on broad Army plans, operations, and activities normally will be prepared (to include coordination and internal clearance) by the DA Staff according to requests by the CLL. The CLL will, when pertinent, obtain OSD clearance of this information and properly distribute the material to appropriate elements of the Congress.

7-4. Activities within constituencies

a. The DA will inform Members and interested congressional committees concerning unclassified changes in missions or operating levels of Army installations that will have a significant impact on local constituencies. Although thresholds are established in AR 5-10, CLL will make determination of when Congress should be notified. Thus he or she must be informed of all changes prior to public release or implementation. For purposes of this provision, Army installations will include Government-owned contractor-operated (GOCO) facilities.

b. Approved changes in local missions or operating levels will be reported through channels to OCLL before public announcement or implementation. If appropriate, these reports will include recommendations on the content and release date of the information to be provided to Congress. Formats for Information for Members of Congress and Realignment Fact Sheets are shown in AR 5-10, Appendix E.

c. The procedures outlined in AR 690-300, chapter 351, will be

followed when providing information on realignments and reductions affecting civilian employees of installations or separate activities.

d. Contracting officers will report impending contract awards of five million dollars or more to the DA as called for by Federal Acquisition Regulation (FAR) 5.303. Public Law prohibits release of information to anyone concerning the identity or location of the person, company, or corporation to whom any contract has been awarded by the DOD (including a Member of Congress) prior to public announcement.

e. Contracting officers will report proposed significant contract terminations through ASA(RDA) to OCLL as called for in the DOD Supplement, Part 49.7002, to the FAR. OCLL may furnish reported information to Congress depending on the significance of the termination.

7-5. Action agencies

To meet the requirements for notifying Congress, the following guidelines are outlined:

a. Agencies responsible for an action likely to lead to congressional interest will coordinate with the CLL, the ASA(FM), or the appropriate Army agency having responsibility (as shown in para 1-4) during the planning phase; this action is to determine the need for a congressional notification plan. If required, a congressional notification plan will be prepared.

b. When required, the agency responsible for the action will prepare an information paper or furnish briefings to inform Congress, in coordination with OCLL.

c. CLL will assure coordination with OCPA.

Appendix A References

DD Form 1790
Prepared Testimony Review

Section I Required Publications

AR 5-10

Reduction and Realignment Actions. (Cited in para 7-4.)

AR 340-17

Release of Information and Records from Army Files. (Cited in paras 2-2, 5-6, 5-7, and 6-4.)

AR 340-21

The Army Privacy Program. (Cited in paras 2-2 and 6-4.)

AR 360-5

Public Information. (Cited in para 5-5.)

AR 380-5

Department of the Army Information Security Program. (Cited in paras 5-5, and 6-4.)

AR 600-20

Army Command Policy. (Cited in para 6-3.)

AR 690-300

Reduction-in-Force (Chapter 351). (Cited in para 7-4.)

Section II Related Publications

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

DA Memo 340-6

Preparation of Papers Relating to Legislation (other than Appropriations Bills), Executive Orders, and Proclamations. (This memo may be expeditiously obtained through electronic means from OCLL, ATTN: SALL, WASH DC 20310-1600, AUTOVON 225-3524 or commercial (202) 695-3524.)

DA Memo 360-1

Army Staff and Secretariat Public Affairs Program. (This memo may be expeditiously obtained through electronic means from OCLL, ATTN: SALL, WASH DC 20310-1600, AUTOVON 225-3524 or commercial (202) 695-3524.)

DA Memo 360-3

Clearance of Statistical Material for Release Outside of the Army. (This memo may be expeditiously obtained through electronic means from OCLL, ATTN: SALL, WASH DC 20310-1600, AUTOVON 225-3524 or commercial (202) 695-3524.)

DA Memo 360-9

Review and Clearance of Information for Release Outside the Department of Defense. (This memo may be expeditiously obtained through electronic means from OCLL, ATTN: SALL, WASH DC 20310-1600, AUTOVON 225-3524 or commercial (202) 695-3524.)

FAR 5.303

Announcement of Contract Awards. (This publication may be obtained from any Army contracting office or from the Government Printing Office (GPO)).

FAR 5.303

DOD Supplement, Part 49.7002. This publication may be obtained from any Army contracting office.

Section III Referenced Forms

Glossary

Section I Abbreviations

ABO

Army Budget Office

ASA(CW)

Assistant Secretary of the Army for Civil Works

ASA(FM)

Assistant Secretary of the Army for Financial Management

CBO

Congressional Budget Office

CLL

Chief of Legislative Liaison

COA

Comptroller of the Army

DA

Department of the Army

DCSI

Deputy Chief of Staff for Intelligence

DCSOPS

Deputy Chief of Staff for Operations and Plans

DISC4

Director of Information Systems for Command, Control, Communications, and Computers

DM

Director of Management

DOD

Department of Defense

DPAE

Director, Program Analysis and Evaluation

FAR

Federal Acquisition Regulation

GOCO

Government-owned contractor-operated

GPO

Government Printing Office

HAC

House Appropriations Committee

MACOM

Major Army Command

NATO

North Atlantic Treaty Organization

OASD(PA)

Office of Assistant Secretary of Defense (Public Affairs)

OCLL

Office of the Chief of Legislative Liaison

OCPA

Office of the Chief of Public Affairs

OCSA

Office of the Chief of Staff, U.S. Army

OMB

Office of Management and Budget

OSD

Office of the Secretary of Defense

RCS

requirements control symbol

SAFM(BUL)

Budget Liaison Office within ASA(FM)

S&IS

Surveys and Investigations Staff

SOP

Standing Operating Procedure

TAG

The Adjutant General

TJAG

The Judge Advocate General

USAISC

U.S. Army Information Systems Command

USAPPC

U.S. Army Publications and Printing Command

Section II

Terms

This section contains no entries.

Section III

Special Abbreviations and Terms

There are no special terms.

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